

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3790 OF 2022

Kalpeshkumar @ Alpesh Dilipbhai
Gajjar

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Pankaj Pandey a/w. Mr. Atul Pathak for the Applicant.

Mr. S.H. Yadav, APP for the State.

Mr. M.A. Daarshi, PSI, Malwani Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th JULY, 2023.

P.C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in C.C.No.1783/PW/2022 pending on the file of Metropolitan Magistrate, 67th Court, Borivali, Mumbai. The said case arises from C.R.No.82/2022 registered with Dindoshi Police Station, Mumbai for offences punishable under sections 120-B, 420 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Sunil Kedia. The records reveal that the brother of the first informant had received a phone call from one Manisha Patel stating that she was a Sales Manager of Umiya Trading Company engaged in selling PVC Resin Chemical. It is stated that the Applicant was one of the partners of Umiya Trading Company. The first informant visited the godown and subsequently placed an order for supply of chemical PVC Resin of 10,000 kgs and transferred an amount of Rs.15,63,500/- in the account of partnership firm. The said firm neither supplied the material – PVC Resin nor refunded the money. Hence, the FIR came to be registered against the Applicant and other two partners for the offence of cheating.

4. The records prima facie reveal that the money was deposited in the account of partnership firm. It is stated that the co-accused who had allegedly withdrawn the said amount as well as the other partners, have been granted bail by the trial court. The Applicant is in custody since 21/02/2022. The prosecution was unable to recover the amount while he was in police custody. Considering the large pendency, the trial is not likely to conclude in the near future. In view of the above and considering the fact that the co-accused who have been placed in

similar circumstance, have been granted bail, the Applicant is entitled for bail. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in C.C.No.1783/PW/2022 pending on the file of Metropolitan Magistrate, 67th Court, Borivali, Mumbai arising out of C.R.No.82/2022 registered with Dindoshi Police Station, Mumbai, is ordered to be released on cash bail in the sum of Rs.30,000/- for a period of six weeks ;
- (ii) The Applicant shall, within the said period of six weeks, furnish P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
- (iii) The Applicant shall report to Dindoshi Police Station, Mumbai once in three months on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. until further orders ;
- (iv) The Applicant shall not interfere with the prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any

person concerned with the case;

(v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

5. Bail Application stands disposed of in above terms

(SMT. ANUJA PRABHUDESSAI, J.)

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